

**STAFF REPORT  
ZONING BOARD OF ADJUSTMENT**

**Thursday, September 20, 2018  
9:00 a.m.  
Room 105 Courthouse Annex  
Cascade County Commissioners Chambers**

**SUP #010-2018**

**Subject Property Information**

Name of Applicant & Owner:	Jessica and Dusty Fryberger 202 US Hwy 89 Vaughn, MT 59487
Legal Description:	S26, T21N, R1E, IN NE/4, NESE
Geo-Code(s):	02-3136-26-1-01-03-0000
Parcel Number(s):	0005735900
Existing Zoning:	Agricultural (A)
Requested Action:	Approval of a Special Use Permit to allow Indoor Sports and Recreation / Entertainment
Surrounding Land Uses / Zoning:	North: Residential / MU South: Pastureland / A East: Residential / MU West: Pastureland / A
Current Land Use:	Residential
Applicable Regulations:	Sections 10 and 7.2.4(19) Cascade County Zoning Regulations

**General Information:**

The Cascade County Zoning Board of Adjustment is in receipt of a Special Use Permit application #010-2018 from Jessica and Dusty Fryberger to allow Indoor Sports and Recreation / Entertainment on their property in NE/4, NESE section 26 of Township 21N, Range 1E, Cascade County, MT. The applicant is requesting that a Special Use Permit be granted as required by Sections 7.2.4(19) of the Cascade County Zoning Regulations.

## **General Provisions**

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the “Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10” within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be \$450.00.

## **Expiration**

The Zoning Board of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the Zoning Board of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

## **Findings of Fact:**

1. The property is in the Agricultural (A) Zoning District. The proposed use is allowed in the Agriculture District pursuant to Section 7.2.4(19) of the Cascade County Zoning Regulations. *“Agricultural District...Uses Permitted Upon Issuance of a Special Use Permit...Indoor Sports and Recreation / Indoor Entertainment, including commercial rodeo grounds, therapeutic facilities, riding academy, and commercial stables”*
2. Jessica and Dusty Fryberger are the legal owners of the property.
3. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance, and county taxes are current. Cascade County Weed & Mosquito identified the property as

out of compliance in response to staff solicitation for comment from interested agencies. This status was due to the previous property owner's failure to manage noxious weeds on the property. The applicants have brought the property into compliance and have a weed management plan filed with Weed & Mosquito which is attached to this report.

4. Legal Notice of the application and the public hearing was published in the Great Falls Tribune on September 9, 2018 and September 16, 2018. Legal Notice was sent to adjacent property owners on September 9, 2018. Staff have received two comments from adjacent property owners which have been provided as an attachment to this report.
5. A special use permit may be revoked by the Cascade County Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations.
6. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations.
7. Access to the facilities will be from an established approach on the north border of the property off of U.S. Highway 89 and the east border of the property onto 12<sup>th</sup> Street in Vaughn.

### **Findings with Respect to the Analysis Criteria**

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

1. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts in order to reach these conclusions.
2. The proposed development will not materially endanger the public health or safety.

#### **Considerations:**

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb approaches:

***Applicant: There are two entrances on the property. One north onto 5 lane Hwy 200 which is the main entrance. Traffic should have no issue or ill effects as there is plenty of space, good line of sight and a turning lane. The 2<sup>nd</sup> entrance onto 12<sup>th</sup> Street can be opened or closed as necessary.***

**Staff:** Staff expects the proposed use will have the potential to impact traffic during activities and events. The primary access to the indoor facilities on the parcel is through the U.S. Highway 89 approach. Staff provided notice to Montana Department of Transportation and received feedback that there are no concerns about traffic.

- b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.

***Applicant: We have approached Vaughn Water and Sewer and received approval to tie into their system. We are in the process of that. Electrical service is through Sun River Electric and natural gas is on property with NorthWestern Energy. Garbage collected by MT Waste Systems and Vaughn Fire Department is approximately 1 mile away.***

**Staff:** There is broad access to utilities in the town of Vaughn, staff has no reason to believe that any issues will arise due to the provision of utilities. Staff contacted Vaughn Water and Sewer to solicit commentary and received confirmation that services have been approved for the applicants and that no safety issues are a concern.

- c. Soil erosion and sedimentation.

***Applicant: We foresee minimal negative impact.***

**Staff:** Staff anticipates the proposed use will have impacts to soil erosion and sedimentation on the property. Staff expects the extent and character of the impacts will be contingent upon grazing practices. Commentary received by staff from an adjacent property owner expressed concern about the erosion impacts of grazing on the levee located along the southern end of the property and the previous owners' practice of overgrazing in the corral areas resulting in a dust nuisance for neighbors on the east side of the property.

- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

***Applicant: We foresee minimal negative impact.***

**Staff: Staff does not anticipate any significant impacts to the existing sewage infrastructure or compromise to the groundwater of the area.**

- 3. The proposed development is a public necessity, or will not substantially impact the value of adjoining property.

Considerations:

- a. The relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

***Applicant: We wish to expand and improve current and previous use of the property. We plan to comply with current regulations. No known conflicts and we don't anticipate any, but should they arise we plan to handle in a timely and understanding fashion.***

**Staff: Staff views the use of indoor facilities for sports and recreation / entertainment on the property to be complimentary to surrounding agricultural uses. However, comments received by staff from adjacent property owners in the mixed use district to the east of the property expressed concern about continued dust and odor nuisance from the corrals located on the eastern border of the property.**

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

***Applicant: We foresee our ownership of the current facility as a positive impact on the community and county. We will be able to provide desired agricultural and equine services as well as maintain and care for the property with needed clean-up, repairs, and improvements.***

**Staff: Staff views the proposed use to be necessary to the general welfare of the community as it is a venue for the**

**experience and practice of customary agricultural skills and knowledge.**

4. The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

***Applicant: As previously stated, we plan to improve and expand previous use of the property. We will maintain and manage property for better public use and enjoyment. We have already been contacted by several clubs, individuals and groups that are expressing interest, requesting use and providing support.***

**Staff: Staff views the proposed use to be complimentary to surrounding agricultural uses. The bulk of Vaughn residents are located half a mile from the property, however, adjacent parcels zoned Mixed Use may experience some nuisance from the proposed use. Commentary received by staff from adjacent property owners expressed concern about the history of dust and odor nuisance emanating from the corral area on the east side of the property. Staff views the location of the corrals to be the biggest concern for adjacent properties.**

5. The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

- a. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

***Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.***

- A. *Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.*

***Applicant: Facilities will be available for use by other agricultural businesses and individuals or groups as approved by regulations. We will also encourage support of local businesses when possible.***

**Staff:** Staff views the regular availability of indoor sports and recreation / entertainment to be a substantial service to the community of Vaughn and the greater service region in Great Falls and surrounding county communities. The agricultural focus of the planned activities suggests a stimulus to the local and regional agricultural economy. Additionally, the attraction of spectators and participants from the surrounding areas will likely provide a stimulus for local service providers.

- B. Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.*

***Applicant: Minimal negative impacts known. We plan to manage the property with conservation and care of natural resources in mind.***

**Staff:** Staff views the planned use to be a sustainable use of the natural resources involved with tax base impacts being contingent upon the success of commercial activity.

- C. Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.*

***Applicant: Our neighboring businesses such as Big Sky Deli, Sinclair, Exxon & Darryl's Tire will also benefit from our clients as they offer different products than us. We plan to encourage youth organization like 4H to use our facility.***

**Staff:** Staff views the planned use of the property to be complementary to existing businesses because the use will likely stimulate local spending while providing no hinderance to their operations. By providing opportunities for youth interested in agricultural skills and traditions, the proposed use targets youth/social services development. Additionally, the utilization of an existing indoor arena on the property for the proposed use is a reinvestment in the property and community which exemplifies capitalization on existing fixed assets.

- D. Promote the development of cultural resources and tourism to broaden Cascade County's economic base.*

***Applicant: By hosting events, shows, clinics and competitions we can effectively draw both participants and spectators from all over Montana. This will encourage traffic and consumers to local businesses, shopping, food, fuel and even lodging with multi-day events.***

**Staff: Staff agrees that the proposed use will likely produce some tourism to the community of Vaughn and associated spillover effects.**

- E. Foster and stimulate well-planned entrepreneurship among the county's citizenry.*

***Applicant: Minimal negative impact known.***

**Staff: Staff views the proposed use to be unassociated directly with entrepreneurship development, however, indirect benefits may occur as a result of the proposed use.**

- F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.*

***Applicant: Minimal negative impact known.***

**Staff: Staff views the proposed use to be unassociated directly with supporting a strong local business environment, however, indirect benefits may occur as a result of the proposed use.**

- G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.*

***Applicant: We will work in cooperation with local businesses whenever possible. We will strive to promote and advertise for local business through sponsorship and other acceptable means.***

**Staff: Staff views the proposed use to be an improvement in local trade capture due to the likelihood of local consumption in the Vaughn area occurring as a result of outside attraction to the area.**

- H. Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.*



***Applicant: When applicable to us we are happy to support development in the region.***

**Staff:** Staff views the proposed use to be supportive of regional economic development efforts through the educational, recreational, and event services proposed.

- I. Encourage the growth of the agricultural economy.*

***Applicant: Establishing a functioning equine event center and boarding facility will require an influx of feed and supplies that can be produce and/or purchased locally.***

**Staff:** Staff views the proposed use to be directly encouraging the growth of the agricultural economy through on-site consumption of agricultural products and the cultural reproduction of agricultural skills and knowledges.

- J. Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.*

***Applicant: Not involved directly but will utilize alternative production energy when/if available.***

**Staff:** Staff sees no negative impacts to economic development resulting from energy diversification for the proposed use. Positive benefits may result from applicant's willingness to utilize alternative energy sources if available.

***GOAL 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.***

***Objectives:***

- A. Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.*

***Applicant: Plan to improve surrounding pastureland, farmland and river bottom by grazing management and noxious weed control.***

**Staff:** Staff views the proposed use to be a direct continuance of agricultural practice and a contribution to the agricultural economy.

- B. Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.*

***Applicant: Manage grazing and noxious weeds. Possibly provide minimal impact marked trails for customer public use along old river channel through pastureland and along Sun River.***

**Staff: Staff anticipates minimal negative impacts to wildlife and streams resulting from the proposed use.**

- C. *Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.*

***Applicant: We are not planning to be involved in active development at this time.***

**Staff: No new development proposed. The facilities are currently located near Vaughn.**

- D. *Assure clean air, clean water, a healthful environment and good community appearance.*

***Applicant: By becoming owner occupied rather than tenant occupied we will have more desire and ability to maintain and upkeep the property.***

**Staff: Staff anticipates minimal negative impacts to the area's environment and appearance resulting from the proposed use.**

- E. *Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.*

***Applicant: We will do our best to care for the land and facility we own and encourage others to do the same. We are not currently involved in timber, mining, oil & gas production or renewable energy production.***

**Staff: Staff anticipates the proposed use will have marginal impacts to the development of energy-oriented natural resources.**

- F. *Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.*

***Applicant: We are willing to work with federal and state agencies when applicable however we are not currently involved in any redevelopment.***

**Staff:** Staff anticipates the proposed use will have marginal impacts to Superfund and Brownfield processes.

**GOAL 3: Maintain Agricultural economy**

*A. Protect the most productive soil types.*

**Applicant:** *We have been farming and ranching in Cascade County for over 12 years. We will continue to protect and improve the soil as it represents our way of life. We also plan to manage grazing and noxious weeds.*

**Staff:** Staff anticipates the proposed use will partially rely on the maintenance of soil and that the applicants have a personal interest in maintaining productive soil for agricultural purposes. Staff see no reason to believe that negative impacts to soil will result from the proposed use.

*B. Continue to protect soils against erosion.*

**Applicant:** *Limit activities that might harmfully affect soils or cause erosion. We will maintain natural drainage when applicable.*

**Staff:** Staff anticipates impacts to soils from the proposed use but do not expect any significant contribution to erosion.

*C. Protect the floodplain from non-agricultural development.*

**Applicant:** *The majority of the property is not located in the floodplain. The small percentage that is will be maintained as pastureland.*

**Staff:** Staff views the proposed use to be protecting the floodplain through continued agricultural utilization.

*D. Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.*

**Applicant:** *As previously stated, the boarding of animals will require feed that we plan to produce or purchase locally. We will also be purchasing seed, fertilizer, chemical, fencing, farm and building materials as needed from surrounding areas.*

**Staff:** Staff views the proposed use to be a direct continuance of agricultural practice and a contribution to the agricultural economy.

**GOAL 4: Retain the presence of the US Military in Cascade County.**

**Objectives:**

- A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.*
- B. Promote the location of additional military missions in Cascade County.*
- C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.*
- D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.*

***Applicant: Not applicable as we are not involved in business with the military.***

**Staff: Staff does not believe that this application will have any impact on the presence or mission of Malmstrom AFB in Cascade County. The nearest launch facility is approximately one mile away.**

***GOAL 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.***

**Objectives:**

- A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.*

***Applicant: We will provide recreational opportunities that support active, purposeful lifestyles for the community with as little interference as possible while still obeying governing laws and regulations.***

**Staff: Staff views the proposed use to be agreeable to the maintenance of independent lifestyles through the proposed services provided. Staff anticipates marginal impacts to the scope and scale of government intervention.**

- B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.*

***Applicant: Our business will allow for a celebration of the ranching and cowboy way of life. Events, clinic, shows with participants and***

***spectators will honor and preserve the history associated with settling our region.***

**Staff:** Staff agrees that the proposed use will preserve county cultural heritage in agriculture by providing a venue for the experience and practice of traditional agricultural skills and knowledges.

- C. *Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.*

***Applicant: We will practice fire safety and encourage anyone on our property to do the same. We will maintain the facility with fire safety high in mind.***

**Staff:** The property is located in the wildland-urban interface with low-risk terrain/fuel hazard according to the 2008 Cascade County Community Wildfire Protection Plan. Staff finds the proposed use of the property promotes fire prevention through fuel reduction impacts from grazing.

- D. *Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.*

***Applicant: Our facility will offer ample opportunities for residents to recreate and prolong the seasons due to indoor accommodations. We will also provide educational clinics and increased access for younger populations and groups like 4H.***

**Staff:** Staff agrees that the proposed use will facilitate educational and recreational opportunities in the county by providing indoor facilities for practice and training.

- b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

***Applicant: No response provided by applicant.***

**Staff:** The proposal will not have a negative impact on the municipal or joint land use plans and is likely to have a significant positive effect on the character of the County and the community of Vaughn.

## Section 10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

**Motions:**

The following motions are provided for the board's consideration:

- A. Alternative 1: Move the Special Use Permit to allow indoor sports and recreation / entertainment activities on Parcel 0005735900, Geocode 02-3136-26-1-01-03-0000 be **denied** (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- B. Alternative 2: Move the Board adopt the staff report and **approve** the Special Use Permit to allow indoor sports and recreation / entertainment activities on Parcel 0005735900, Geocode 02-3136-26-1-01-03-0000 subject to the following conditions:

The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.

Attachments:

- Special Use Permit Application, Zoning Map, Zoning Section 7.2.4(19), weed management plan, and public comments received

cc: Jessica and Dusty Fryberger